

NWX-HHS-AOA-1

Moderator: Becky Kurtz
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2:00 pm CT

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen-only mode.

There will be opportunities to ask questions during today's call. To ask a question at that time please press Star then 1. Today's conference is being recorded. If you do have any objections you may wish to disconnect at this time.

I'll now turn the meeting over to Ms. Becky Kurtz. Ms. Kurtz you may begin.

Becky Kurtz: Thank you (Suzanne) and welcome to everyone on the call. I'm so glad that you were able to join us today.

My name is Becky Kurtz, I'm the Director of the Office of Long Term Care Ombudsman Programs. We are located within the Administration on Aging which is part of the Administration for Community Living here at HHS, Health and Human Services.

And I am joined today by colleagues at CMS to present to you information about Medicaid Administrative Claiming and the Long Term Care Ombudsman Program.

I've been in this position a little bit less than three years actually next week it'll be three years and immediately when I arrived I received multiple questions from states around, is it appropriate to claim for Medicaid administrative funding in the Ombudsman Program and I started posing those questions to CMS and others at ACL previously AOA also had posed those questions to CMS.

And I have to say, the folks that are on the call today presenting have been incredibly helpful in answering those questions. And I hope that today's call will help clarify those questions for all of you.

So today we are joined by a number of folks from CMS. I want to give a big thank you to Janet Freeze and her team and she will be starting us off. But Janet Freeze, Chris Thompson, Judy Wallace, Sharon Brown and their colleagues under the leadership of Diane Heffron and also under the leadership of Cindy Mann have been phenomenal in helping us get to this point and I just can't thank them enough for all their hard work and commitment to this.

I also want to give a word of thanks to my colleagues here in the Administration for Community Living our Assistant Secretary for Aging Kathy Greenlee, her Deputy Assistant Secretary Edwin Walker and Region 5 and 7 Director Jim Varpness. He has been - he started this even before I came so I appreciate all the work that those folks have done.

And also to the help of the folks at NASOP National Association of State Ombudsman Programs under the leadership of Joe Rodriguez have been very helpful as well in getting us to this point. So a big thank you to all of those folks. Nothing is simple but everybody worked together to get to this point.

Just as the Operator mentioned we're going to be doing Questions and Answers after the presentation and we will be beginning with any audio questions folks want to ask. And if you also think of questions you'd rather put into the Chat function of the Webinar after we're done with the audio questions we'll go through those as well. And we of course will be taping today so we'll have all of this available for your later reference as well.

I'm now going to turn over the presentation to Janet Freeze. Janet is the Director of the Division of Reimbursement and State Financing at the Center for Medicaid and Chip Services within CMS. And we are just thrilled that Janet is doing this for us. When we asked Janet if CMS would help us do an educational Webinar for our networks she was immediately eager to help us out with that and we just can't thank you enough Janet and your colleagues for helping us today.

So I'm going to turn it over to Janet.

Janet Freeze: Thank you Becky. Good afternoon everyone or for those of you way out West I guess it's still good morning. I would like to also reiterate what Becky said, regarding the thanks. The staff here are the finest people that I've ever worked with and that was nowhere more evident than during this entire project. We couldn't have done it though without the constant feedback and helpful information that was provided both by the staff at ACL and our friend Joe Rodriguez at NASOP and I'm sure there are others that helped along this process.

We are CMS are very excited about this. This is an opportunity for us to provide information to states, to Ombudsman Programs and other stakeholders including our regional offices regarding when and how claiming Medicaid administrative funding might be available for certain activities conducted by Ombudsman Programs.

Becky indicated we are with the Centers for Medicare and Medicaid Services on the Medicaid side of the house. Specifically we are in the Financial Management Group and one of our areas of responsibility is to provide technical assistance and guidance and assure national consistency and application of those policies regarding administrative claiming.

I'd like to welcome everyone who took the time to join the call today. At the end of our presentation you will get some information on how to proceed should your state have questions or your program have questions or wish to investigate whether it's possible to initiate some admin claiming for Ombudsman activities.

Of course given our limited time and the extreme complexity of the issues that office surround this sort of funding we won't be able to answer everyone's questions today and we, you know, won't be able to get into really questions that are so specific to an individual state or an individual state's Ombudsman Program. As they say, in Medicaid if you know one Medicaid program you know one Medicaid program. And I think to perhaps some extent that's likely true for the people out there working very hard on the Ombudsman side.

So we do encourage you to work with your state if you're Ombudsman Program, work with your Medicaid agency, bring CMS into the loop early into the process particularly the regional office staff and we stand ready.

They'll be some again some more information about the materials that we've posted on our Web site. But I would like to highlight for everyone that I think the information is all useful but one of the most useful things is the sample work plan that we've posted which really provides a step-by-step guidance to interested parties in how to proceed.

So with that I will turn it over to our Technical Director Chris Thompson. Chris has a long background in a lot of things related to financial management and has along with our other admin claiming team members of course have been integral in development of this project.

So with that Chris I turn it over to you and go ahead.

Chris Thompson: Okay good afternoon everyone. I wanted to thank everyone for calling into this presentation. And I would first like to say, this is a general overview of existing policy concerning activities conducted by state and long term care Ombudsman Programs that will be claimable for federal and financial participation or what we call FFP.

I'm sure everyone by now is aware of the CMS informational bulletin or what we call a CIB that was issued on June 18. That bulletin was specifically - well that bulletin specifically discussed Ombudsman activities applicable to individuals receiving long term care. While CMS is currently working with several parties including ACL and NASOP to clarify policy on various Ombudsman activities this presentation will focus primarily on Ombudsman activities applicable to long term care.

So with that being said, I wanted to briefly go over some items that will be covered in this presentation and I guess we can start off at Slide 2. We will discuss the goals of the CIB, we will lay out a general framework for claiming

of FFP associated with Medicaid administrative expenditures. We'll briefly discuss inner agency agreements, we'll discuss Medicaid administrative Ombudsman activities that are claimable for FFP.

We will talk about cost allocation requirements and we will briefly discuss the proposed (glide path) to approval of plans to claim FFP for Medicaid administrative Ombudsman activities.

Next slide please. And as I indicated over the past year or so we have been working very closely with ACL and NASOP to review existing policies and develop guidance documents to clarify the requirements for claiming of FFP.

Next slide please. Along with the CIB CMS also provided additional guidance for technical assistance on the Medicaid.gov Web site. In the past there may have been some confusion regarding what could and could not be claimed for Medicaid Administrative Ombudsman activities. So in general the goal of the CIB was to hopefully clear up any of that confusion.

Next slide please. Now before we go any further I do want to lay out sort of a general framework for claiming of federal financial participation in association with administrative activities or in other words activities generally claimable at the 50% admin claiming rate as opposed to the state's Applicable Federal Medical Assistance Percentage or what we call AFMAP. And I'll just go through these briefly.

In general cost must be for the proper and efficient administration of the Medicaid state plan. Cost must be allocated in accordance with the relative benefits received by all programs not just Medicaid. Costs must not duplicate costs that have been or should have been paid through another source. Costs must be discounted by the Medicaid eligibility rate to ensure only those

activities provided to Medicaid beneficiaries are claimed. Cost must be supported by an allocation methodology that appears in the state's Approved Public Assistance Cost Allocation Plan or what we call APACAP.

Costs must not include funding or a portion of general public health initiatives that are made available to all persons such as public health education campaigns. Cost must not include the overhead costs of operating a provider facility that would normally be claimed under direct medical Federal Medical Assistance Percentage or FMAP. Costs must not duplicate activities that are already being offered or should be provided by other entities or through other programs.

Costs must not include any costs related to the provision of a direct medical service or administrative costs incurred by the provider that are integral to the provision of the direct medical services. And finally costs must not be supported - must be supported by adequate source documentation.

I think the overall takeaway from this slide here is that costs must not be too implicative across multiple programs and there should be some distinction between costs for direct services as opposed to admin activities.

The next slide please. Now we recognize that a lot of times activities provided by the - provided for the proper and efficient administration of the state plan may be conducted by some other entities. In the case of Ombudsman we may have an Ombudsman that might contract directly with the state Medicaid agency or we might have an entity that employs an Ombudsman and that entity might contract directly with the state Medicaid agency.

So with regard to Ombudsman and contract directly with the state Medicaid agency we must have a contractual agreement of course in hand. And again

just going back to Slide 5 the cost discussed within that contract must be for the proper and efficient administration of the state plan. All general Medicaid Administrative Claiming requirements must be met including the requirement that costs must be allocated properly.

Next slide please. Regarding the contractual arrangement between the Ombudsman and the Medicaid agency CMS would expect that this contract be specific to Medicaid Administrative activities conducted by the Ombudsman. In other words the contract should not be overly broad.

Next slide please. With regard to entities and contracts with the state Medicaid agency the following requirements must be met. First there must be a contract in place. The contract must be in effect prior to the Medicaid agency claiming matching funds. The contract must identify the administrative activities and services the Ombudsman Program will provide and if applicable include provisions related to Medicaid Reimbursement and Funding mechanisms.

The contract must define oversight and monitoring the possibilities of each party.

Next slide please. As well the contract must describe and define the following. It must detail documentation requirements, it must detail training time tables and criteria and it must detail mutual responsibilities of all parties. As well the agreement must identify how claims will be filed and finally the contract must include a description of the CMS improved cost allocation plan and methodology used to identify allowable and unallowable costs.

And I do want to note that while we're focusing on Ombudsman activities here these requirements would be the same for any admin claiming. So you

can take these principles and apply it to any other activity that's claimed under admin.

Next slide please - oh I'm sorry no we're...

Janet Freeze: You're good.

Chris Thompson: ...at Slide (10) sorry about that. Okay so to the extent that Ombudsman activities are conducted at a county or local level and there are state level costs that are attributable to those activities we would expect that there would be a cost allocation plan in place as well as most Ombudsman I would assume probably provide more than just Medicaid activities we would expect that there would be a time study that would be in place in order to identify costs applicable to Medicaid.

And we will further discuss the time setting requirements in Slide 12.

So next slide please. With regard to the cost allocation plan we would expect that it would include copies of vendor contracts and/or an inner agency agreement if applicable. As well as should describe mutually exclusive cost pools and it should specify that all cost claimed under the approved cap are subject to review and/or audit.

Next slide please. Now with regard to the time study and implementation the time study must be statistically valid and it must be approved by CMS. I know in the past we've had states and mid time studies for admin claiming. In this case the time study itself must be approved by CMS before we can move forward and allow for claiming applicable to Ombudsman activities.

As well the time study must capture how staff spend 100% of their time. It must include parallel coding or essentially it must include a uniform coding structure across all applicable programs. It must include training materials to implement the time study and it must describe how the state will monitor the time study implementation process.

Next slide please. So once all those requirements are met claiming of federal financial participation can begin but then the question becomes what activities are actually claimable as Medicaid Administrative Ombudsman activities. And this slide sort of lays that out for us. And I'll just go through this.

The first one here is activities applicable to identifying potential enrollees regarding Medicaid eligibility and facilitation of the enrollment process. The second one here is identifying and referring individuals who may be eligible or in need of Medicaid services. The next one is tracking and reporting to the Medicaid agency, consumer request for assistance in obtaining medical, dental, mental health or long term care services.

The next one is providing Ombudsman services to assist beneficiaries in transitioning from Medicare Part A coverage into the Medicaid nursing facility, home and community base waiver services or other Medicaid service categories.

The next one here is consultation and direct case advocacy. The next one is identification of Medicaid eligible residents who want to transition out of nursing home facilities. And this next one here and I do want to highlight this one. We will talk about this one in the next slide but it's identifying and reporting suspected instances of Medicaid and again I'll highlight Medicaid fraud to federal and state agencies for investigation.

And the last one is any other activities determined by the secretary of Health and Human Services. Okay, okay so next slide please. Okay, (unintelligible). Okay.

So now this slide here sort of provides some examples of activities that would not be allowable and I'll just go through these. The first one is in regard to administrative costs that are integral to part of or an extension of the provision of a medical service. This will be - this would actually be claimed at FMAP as a direct service so it wouldn't be applicable to admin claiming.

The next one here I kind of look at this one as partially applicable to target a case management or case management claimable under direct medical again but it's gaining access to or coordinating social, educational, vocational, legal advocacy or other non-Medicaid services.

The next one here deals with staff training costs for discharge planners, counselors and other professionals and I do want to highlight this last one again going back to the previous slide. This one deals with identifying and reporting instances of social security or other public benefits fraud to relevant federal and state agencies. This one is not applicable or not claimable I should say because it's not applicable to Medicaid.

Whereas the second from the last bullet on the previous slide was allowable that's directly applicable to Medicaid. So I just wanted to highlight the difference in those two activities.

The next slide please. So in closing we wanted to provide you all with a suggested glide path to CMS approval of Medicaid Administrative Claiming Plans for Ombudsman activities. And that's basically laid out here on this slide. We would expect that there would be some level of engagement

between the Ombudsman and the state Medicaid agency. After that engagement occurs we would expect that the Medicaid agency would identify a permissible source of funding for any Ombudsman activities.

And then of course the activities themselves would be discussed whether or not the activities would be allowable or not allowable. And then there would be a determination of the basis of FFP by the developing a valid administrative claiming methodology which again could go into the cost allocation plan and/or the time study.

And Number 5 would be establishing contractual arrangements between the applicable parties. And Number 6 would be securing approval from CMS and/or DCA with regard to the plan for claiming for Ombudsman activities as well as the cost allocation plan and/or the time study.

I would also like to say that we would expect that there would be some level of interactions between the state Medicaid agency and our regional offices and the central office would get involved through the regional office.

Next slide please. And on this slide we just basically provided you all with some additional Web links which you all might find helpful. And again based on what I just said, the CMS contacts we would expect that there would be some level of interaction between the regional offices and the central office would be involved in directly through the regional offices.

Next slide please. Okay and I'll turn it back to Janet.

Janet Freeze: Well thank you Chris. I'm sure everybody appreciates the walkthrough. Many of those in our listening audience may feel right now that this is a lot of work but and I will acknowledge that these are very technical requirements but I

want to assure everyone that there's plenty of technical assistance available. The materials that we've put out on the Web are only a start.

We've been doing these sorts of review and helping states in developing administrative claiming protocols for many types of activities not just long term care, not just Ombudsman. So we've got, you know, our collective experience in the regions and in the central office we've been through these a lot. So again as Chris has said, and I've said already we do encourage you to work with, you know have the Medicaid agency and the Ombudsman Programs work together.

Make sure your Medicaid agency is ready to step up and work with you to explore the funding sources and the possibilities. Discuss the activities frankly there might be some activities that you do that the state wants to do itself you never know. There may be things you do the state didn't know that it wanted and needed and you can point that out to them. So there are lot of opportunities here. Again it is technical but please, you know, we are encouraging you as strongly as possible to investigate this.

We feel it's important here at CMS that the Ombudsman Program provides many valuable services to not just the Medicaid benefit themselves but to the program at large.

So with that I'll turn it back over to Becky. She's going to moderate as she said, our questions and we look forward to working with everyone.

Becky Kurtz: Great so (Suzanne) I think we're ready for the Q&A session. As we talked about before we'd like to start off with any questions of folks on the phone - that the phone participants may have and then I've got a few questions that

have come in on the Chat which I'll be happy to go through as well as time permits.

So (Susan) can you open up the lines for the Q&A time?

Coordinator: Thank you. We'll now begin the Question and Answer Session. If you would like to ask a question please press Star then 1. Please un-mute your phone and record your name clearly when promoted. Your name is required to introduce your question. To withdraw your request press Star then 2. Once again if you do have an audio question please press Star then 1.

One moment while we pause to see if there are questions. Press Star then 1 if you do have an audio question. One moment please.

Our first question comes from (Christine Peterandre) your line is open.

(Christine Peterandre): Thank you very much. I can't seem to make a copy of this PowerPoint and it's real important. The issues that you've just covered are essential and they were quick to go through. And I need a copy of this.

Janet Freeze: We can - we'll look - I think we can post this probably on the Web?

Chris Thompson: Yes (unintelligible)...

(Christine Peterandre): Cool.

Janet Freeze: But yes we'll do that and I know ACL has plans to post these materials as well.

(Christine Peterandre): Very good...

Becky Kurtz: That's right.

(Christine Peterandre):...thank you so much.

Coordinator: Our next question comes from (Mel Watson) your line is open.

(Mel Watson): Hi this is (Mel Watson). I wanted to ask a question regarding the contracting directly with the Ombudsman were you talking about local Ombudsman and if so how does that work with the state program?

Janet Freeze: Well there's a variety of methods you could actually do that. You know, in some cases it will be a statewide Ombudsman Program that will be contracting back to the Medicaid agency to perform some activities. In other states it might not work that way. So there's no one answer to that but the important thing to note is that each claiming entity and we - by that we mean the entity that is asking the Medicaid agency for federal funds. Each claiming entity would have to have its own agreement, its own allocation plan.

So typically it's far more efficient if you're able subject to, you know, the contracting laws in your state each, you know, each state government has its own contracting laws and these I'm - these contracts would of course fall under that as well. But we would encourage, you know, if it's possible to do a statewide program, a claiming program that's obviously simple, more simple but we really need to talk to the state and to the Ombudsman to see how you're structured...

(Mel Watson): Okay thank you.

Coordinator: Our next question comes from (Lynn Cancel) your line is open.

(Lynn Cancel): Yes hello. I was hoping that you could address the general activities that an Ombudsman does at least in my state is investigating complaints from residents in facilities. Can someone just - but if the resident is receiving federal funds and so they meet that requirement I'm trying to get a handle on which of the activities that the Ombudsman would do in advocating and addressing those complaints that would be considered appropriate?

Janet Freeze: Well again if I'm hearing your question right I think you're asking about investigation of perhaps quality of care complaints those sorts of complaints?

(Lynn Cancel): Yes.

Janet Freeze: Okay that, you know, I'll be honest with you it gets a little gray because, you know, it would have to be something that the Medicaid Program if the Ombudsman Program did not exist that the Medicaid Program would have decided that was for the proper and efficient administration of its program something it wants done to help it run its program well. Obviously, you know, quality of care is a concern well at least I hope it is to all the Medicaid programs.

But the reason that becomes a gray area is because there are other entities within CMS and within the state that are responsible for quality of care, you know, you've got your (pass R) reviews, you've got your survey and certification agents and money and funding that flows betwixt and between. So again I'm just going to be honest with you it's something that we really would like to talk to states or programs individually and help draw that line because it can be quite difficult to parse that out.

I think as a general consideration people could keep in mind that Medicaid funds are not going to be appropriately used in any situation where you put the - where the beneficiary is in an adversarial relationship with the Medicaid Program, you know, we're not going to pay for somebody to fight us. But even within that there are times when the Ombudsman are assisting the beneficiary in an activity that perhaps the Medicaid agency does also has resources to do, so we wouldn't want that to be duplicated.

But it's one of those items that we'd really have to sit down with the program, the state and CMS and talk about what it is exactly, you know, you're doing and why that activity would be appropriate for Medicaid as opposed to other federal funding.

(Lynn Cancel): Thank you.

Coordinator: Our next question comes from (Tonya Hales) your line is open.

(Tonya Hales): Hi in our state we've had a thought of involving the long term care Ombudsman Program to assist us in educating nursing facility residents who respond affirmatively to the MBS Section Q question about wanting information about HCBS Services. And I would just like to hear your comments on whether you feel that that's kind of heading down the road of an appropriate claiming. Thank you.

Janet Freeze: I'm not sure we have enough details to give you an affirm, you know, a definitive answer but obviously if the Medicaid agency decides that it's in their best interest of their program and they wish to provide to their beneficiary assistance.

And as one of the examples that I think we give is assisting for example in transitioning a client from a nursing facility to a home and community based setting or vice versa that, you know, that would be something that is likely allowable because it's in the best interest of the Medicaid Program for the beneficiaries to get services in the best possible, most appropriate setting both for quality of care, cost effectiveness. But again it's going to be limited to Medicaid services.

Chris Thompson: And actually can we just have a sidebar for a quick second? (Okay).

Janet Freeze: And Chris was just breaking a point I don't - I didn't hear this in your question but he makes - he brought up a really good point that we will not pay for training of nursing facility staff that's the responsibility of their employer quite frankly and may be part of the larger mandate of Ombudsman Programs but where you're assisting the Medicaid beneficiary and understanding their options regarding, you know, moving to a different program or something that's more along the lines of where we - we're going to work with you on that.

(Tonya Hales): Thank you.

Coordinator: Our next question comes from (Tony Marino) your line is open.

(Tony Marino): Hi thank you guys. I just want a clarification of the contractual agreement is between Ombudsman office and the Medicaid agency correct?

Janet Freeze: Yes.

(Tony Marino): Okay and then that's with, you know, upon CMS approval but the actual agreement is between the Ombudsman office and the Medicaid agency itself?

Chris Thompson: Yes.

(Tony Marino): Okay...

Janet Freeze: And that's no different, you know, Medi - just Chris brought this point up but it bears repeating, you know, Medicaid agencies contract with all sorts of vendors to do all sorts of work whether it's IT support or, you know, whatever it might be. So this is in our view just another contract that the agency is promulgating in order to and have someone do work on their behalf.

So again, you know, we don't approve the contract itself because there are state laws that would, you know, run all of that sort of thing but we do require that there's certain essential elements the most critical being a clear definition of duties and responsibilities. I guess the shortcut way to say that would be what are we buying?

(Tony Marino): Right okay well thank you very much. I appreciate that.

Coordinator: Our next question comes from (Melonie McNeal) your line is open.

(Melonie McNeal): Thank you. Thank you for the information. I'm wondering what priority this initiative might be with our Medicaid agency. Is there something that CMS is really sort of promoting with the Medicaid agencies heads or with all the stuff that's going on with Medicaid are we likely to get a good cooperation from our Medicaid agency at this point?

Chris Thompson: This is Chris. I don't know exactly, you know, that question would probably be a state by state question. And again our presentation was more so a clarification of existing policies so to the extent that we do have state

Medicaid directors on the line. You know, it was - the presentation was to help them in case they do want to explore a claiming for these activities. But again I can't answer that question for each state because I just don't know what their priorities are when it comes to...

Janet Freeze: And...

Chris Thompson: ...claiming.

Janet Freeze: ...you know, we certainly hope that states do take advantage of available funding opportunities. Obviously HHS at large has a strong desire that, you know, given not just this activity but Ombudsman I'm sure many of you are aware of other funding opportunities that are available through CMS regarding Ombudsman. There's an initiative underway to require Ombudsman services in the managed care world.

But ultimately, you know, Medicaid is a federal state partnership and it's up to the state to decide, you know, first of all what activities they need someone else to help them with, what activities they want to contract out to an outside entity. I can tell you in my experience it goes better if the heavy lifting given especially as the inquirer mentioned all of the burdens right now on state Medicaid programs and health reform activities in general.

It goes much more smoothly I think if the Ombudsman or what other entity is looking to partner with their agency if they could take on, you know, a lot of the heavy lifting and, you know, we put out the sample work plan I think those steps are fairly clear. So again I encourage you to, you know, make those contacts with your state Medicaid agency representative and work, you know, work forward on a proposal.

Coordinator: We do have one more question however they did not record their name. I will open the line. Please check your mute button you may have had your mute button on. Please state your name and ask your question.

(Sarah Slocum): Oh this is (Sarah Slocum) I think it was me.

Coordinator: Yes...

(Sarah Slocum): (From)...

Coordinator: ...(Sarah) go ahead...

(Sarah Slocum): ...Michigan. My question is, is there a particular time line that CMS expects in terms of beginning and reporting periods related to these funds? For example do we - should we plan on beginning an initiative like this on the first day of the federal fiscal year or does it not matter?

Janet Freeze: It does not matter to us it may matter to the state, you know, speaking of...

(Sarah Slocum): Yes.

Janet Freeze: ...fiscal year the important thing is that the agreement, the duties, the responsibilities are hammered out before the state begins claiming the state cannot claim on an estimate. So they have to have a contract in place that obligates them to dispense those funds to their contractor in this case the Ombudsman Program. But regarding start dates, time lines we are at the mercy of the states and their partners as far as when they wish to come to us with a proposal.

(Sarah Slocum): Okay thank you.

Coordinator: Once again if you do have a question please press Star then 1. One moment please. (William Witus) your line is open.

(William Witus): Yes I was wondering if you could expand upon the time study and any methods that may be used to meet that requirement?

Janet Freeze: We didn't quite hear the whole question. Could you repeat it?

(William Witus): Hear me now?

Janet Freeze: Yes we hear...

Chris Thompson: (Unintelligible)...

Janet Freeze: ...you but I think you - we dropped the first part of your question.

(William Witus): Can you hear me now?

Janet Freeze: Yes.

(William Witus): I was needing to know if you could comment further on the required time study and any methods that may be used to meet that requirement?

Janet Freeze: Well that is I'll let the experts here talk but that is, you know, it's a pretty complicated, it's simple but it's complicated. We've done many time studies we certainly have many examples of time studies that we can provide on a case by case basis once we know, you know, the purpose of the time study is to determine which activities work, you know, Ombudsman in this case are working on that are Medicaid matchable and then of those activities which ones are for Medicaid beneficiaries.

So, you know, again, you know, we revert, we refer back to our guidance OMB Circular A87 is of particular note and if you ever have trouble sleeping pull that baby out all on one tape. But anyway, but the idea is to get to the point where we understand and I feel confident that Medicaid is only paying its fair share.

Chris Thompson: And this Chris and I'll just talk briefly about a random moment time study for example. In a random moment time study it does have to be statistically valid, it has to have enough instances of random moments in order for us to determine what amount of cost would truly be applicable to Medicaid. I don't know.

Judy Wallace: So this is Judy Wallace and I'm one of the team members who work with states in the regional offices on designing time studies. I think Chris said, earlier that it does need to be statistically valid. Your state Medicaid agency will have already implemented many existing methodologies for other programs as their claiming administrative funding.

So we do look for it to capture 100% of staff time. Staff whether they're with the LTCO Programs or the state Medicaid Program provide a variety of tasks and functions and those functions some of them would be claimable under Medicaid some of them would not. So there has to be a parallel coding structure for Medicaid non-Medicaid activities and also how the state will monitor the time study and provide oversight to the program.

So I think as each of you partner with the State Medicaid agency I think this is certainly a question to pose to them of existing methodologies that are already in place that they may want to use. And also for to move forward to look at

the activities that are being conducted by your state Ombudsman Program to identify tasks that could fall into the list of allowable activities as such or not.

I hope that answers your question.

Coordinator: Our next question comes from (Janet Lamb) your line is open.

(Janet Lamb): Hi this is (Janet Lamb) from Tennessee and we have an MCO based, you know, Medicaid agency. And even though they're supposed to do, you know, the Ombudsman get involved and, you know, and assist. So I mean do you have any - is this going to create a problem for us because, you know, actually the MCOs are supposed to be doing these things I think. But it appears that, you know, the Ombudsman are getting the calls anyhow.

And then the other question is, are there others, you know, my understanding was that there are other states that have collected this money and I was just wondering, you know, was there - do you know any that did and, you know, about how much can you expect or, you know, how much did they get that's what I want to know?

Janet Freeze: Well every state is different and the way our financial reporting works we don't actually have a line that breaks out Ombudsman, admin directly or indirectly that's expended by the Medicaid agency.

(Janet Lamb): Sure.

Janet Freeze: You know, there frankly there may be states doing it that have not run the plan through us. When we find those situations we work with the state to rectify that and get the proper claiming protocols in place, the proper agreements. But, you know, and again as far as money it's going to vary so widely. I don't

have numbers on it as I've said, but again it's going to really boil down to what activities the Medicaid agency agrees that they wish the LTCO Program to conduct on their behalf...

(Janet Lamb): Okay.

Janet Freeze: ...and, you know, and then work from what services will be provided and then work up from there.

(Janet Lamb): That makes sense okay.

Janet Freeze: And your question about the MCOs there as we mentioned earlier there are initiatives within CMS to promote the MCOs providing more Ombudsman type services and there are others within CMS who could speak to that who aren't on this presentation today but we'll investigate what links perhaps on...

(Janet Lamb): Well...

Janet Freeze: ...(on our team).

(Janet Lamb): ...because, you know, that's my question do we want to go through all this and then, you know, the MCOs are supposed to do it and Tennessee doesn't get any money or, you know. We want to do it, you know, we want to support our Ombudsman and get any funds that we can but, you know, or the MCOs going to be stumbling block in, you know, the states that have them are they going...

Janet Freeze: (Well)...

(Janet Lamb): ...just...

Janet Freeze: ...it's hard to answer state specific questions but again it goes - we can go back at least to one of the points we made earlier. We don't want to pay twice and...

(Janet Lamb): ...sure.

Janet Freeze: ...we - right and if there is another entity that is - has the responsibility that's the appropriate party that should be doing it so...

(Janet Lamb): Okay.

Janet Freeze: ...you know.

(Janet Lamb): I get it.

Janet Freeze: Be the Ombudsman for the Ombudsman.

(Janet Lamb): Not a problem.

Coordinator: Our next question comes from (Suzanne Messenger) your line is open.

(Suzanne Messenger): Yes for states that had already been claiming Medicaid administrative dollars for the long term care Ombudsman Program, how will these clarifications impact existing practices? Particularly I'm interested in the time line. Will it be an automatic change from June 18 when the CIB was issued or will there be some sort of grace period to come into compliance with the new clarifications?

Janet Freeze: Well you make a good point these are clarifications. Nothing that we've presented here today her new policy, new regulation, new statutes. We would certainly hope that even if CMS is unaware of the source of the claim be it

from, you know, paying an Ombudsman Program we would certainly hope that the state who should already be aware of all of these requirements these are again nothing new as far as admin claiming goes that they are in compliance.

This is not a new regulation with a new deadline or a new date. Again this was simply issued as clarifications. What does happen sometimes when CMS, you know, issues clarification is that states or vendors, you know, might take a look at what's going on and either decide that hey what we're doing looks good but we better get CMS's blessing on this or uh oh it looks like a couple of things might not be quite appropriate and again we would really urge the state to come to us and get those, you know, necessary approvals and clarifications.

You know, we're not out there actively hunting down, you know, these programs, you know, but again HHS and CMS are doing - we were trying to do everything we can to support both states and the Ombudsman Programs in accessing Medicaid funding that is appropriate for what they're doing.

(Suzanne Messenger): Thank you.

Coordinator: Once again if you do have a question please press Star then 1. (Christine Peterandre) your line is open.

(Christine Peterandre): Yes thank you. The context of the conversation has pretty much answered my question. I have another one and that's specifically which states are claiming Medicaid reimbursement for administrative costs?

Janet Freeze: We do not have a list.

(Christine Peterandre): Okay.

Coordinator: Please press Star then 1 if you do have a question. We're still waiting for the next audio question.

Becky Kurtz: (Suzanne) if there are no questions in the queue should I go ahead and do the Chat questions? Is there anything...

Coordinator: (No).

Becky Kurtz: ...in queue?

Coordinator: Nothing at this time please...

Becky Kurtz: Okay.

Coordinator: ...go ahead.

Becky Kurtz: Okay great I had one request to go back to a slide, the slide about activities eligible for administrative claiming. So I'm going to go back I'm assuming it's going to be that one. So I'm going to just leave that one up and hope that I've appropriately responded to that question.

One question was that Janet Freeze mentioned a useful tool was the sample work plan. Where specifically can this be found?

Janet Freeze: It's on our Web site we recently in conjunction with issuing the CMS informational bulletin we rolled out some new materials on the Web. We revamped our Admin Home Page and then added a page specific to

Ombudsman Programs and in the slide presentation towards the ends I think what slide?

Woman: Before the references.

Becky Kurtz: So I'll go - I'm going back down to that slide now.

Janet Freeze: On Slide 15.

Becky Kurtz: There we go.

Janet Freeze: I'm sorry I was reading the number upside down. You'll find it there and then...

Becky Kurtz: Okay.

Janet Freeze: ...if - I believe if you look to the - on the right side of the page there's the links. And I think...

Becky Kurtz: Great.

Janet Freeze: ...what do we call it Model Work Plans I can't, I don't have that...

Chris Thompson: Sure.

Janet Freeze: ...I'm not on the Web right now but anyway you'll find it there.

Becky Kurtz: I have a question from (Alice Hetch). "Please clarify if the Medicaid funds are available for Ombudsman work for persons who live in long term care facilities and for those who have transitioned into the community."

Janet Freeze: Yes again it goes back to has the state decided that it wants this activity as part of the administration of its program and have they decided that they wish to contract with an Ombudsman Program or some other entity frequently for example states contract with enrollment brokers to help people get signed up for Medicaid. And it's an activity that is proper and efficient for the administration of the state program, you're ready to get going.

But yes it does not matter, you know, we focus today as Chris mentioned on long term care but that is more than nursing homes.

Coordinator: Please press Star then 1 if you do have an audio question. We're still waiting for the next audio question.

Becky Kurtz: And I would say, let's give it, you know, one more minute and if there are no other questions we can wrap up. Last call for questions.

Coordinator: Star 1 to ask your audio question. One moment please. Our question comes from (Joe Rodriguez). Your line is open.

Joe Rodriguez: Yes good afternoon thank you. Not so much a question but just a word of thanks to Janet and her staff at CMS and to Becky at ACL for all of your work on this issue and for getting the informational bulletin out with the clarifications provided to state Medicaid agencies. I know a lot of time has been spent developing this guidance and NASOP appreciates all of your fine work on this. Thank you.

Janet Freeze: Well Joe I think you just concluded our meeting on a positive note and we thank you for that and we again thank you and those that helped you, your input on our materials was invaluable. You really helped educate us in the

world of what goes on in Ombudsman Programs. I think we all learned a lot.
So really thanks to you as well.

And with that Becky we'll turn it back to you.

Becky Kurtz: Great thanks so much. As we mentioned before we have taped today's presentation and we will have the taped presentation and the slides and any other related information available on the ALC.gov Web site. We can also send out to the folks who were invited to this call notification when it is posted with the link. So look for that and I'm not exactly sure the timeframe of when it will get posted but certainly within the next week or so we'll be sending out the links so that that all of you have access to that information.

(Suzanne) thank you so much for your assistance as our Operator today and thanks to everyone for participating in today's call.

Coordinator: Thank you. This does conclude today's conference. Thank you for joining us. You may disconnect at this time.

END